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10/700,189	11/03/2003	David James Bennetts	Bennetts 2-5	3986
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EXAMINER				
CASCA, FRED A				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@hittgaines.com

# Office Action Summary

**Application No.**

10/700,189

**Applicant(s)**

BENNETTS ET AL.

**Examiner**

FRED A. CASCA

**Art Unit**

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Many 27, 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 5, 12-14, 17, 27 and 36-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 12-14, 17, 27 and 36-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. This action is in response to applicant's amendment filed on May 27, 2008. Claims 1, 5, 12-14, 17, 27 and 36-45 are still pending in the present application. This Action is made FINAL.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 5, 12-14, 17, 27 and 36-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent claims 1 and 17 have been amended to contain new matter. The phrase "an output-only display" added to independent claims 1 and 17 has not been described in the specification. Furthermore, independent claims 1 and 17 have been amended to contain additional new matter. The phrase "fully accessible" added to independent claims 1 and 17 has not been described in the specification.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 5, 12-14, 17, 27, 36-37 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 7,197,332 B2 to Andersson et al in view of Oakley (US Patent No. 7,126,588 B2), further in view of Ogilvie (US 2003/0040899 A1) and still further in view of Cowsky, III et al (US 2004/0204123 A1).

Regarding claim 1, Andersson discloses a portable electronic communication apparatus having at least three modes of operation (col. 4 lines 63-66, multi-function device 10) and including a first user-interface comprising a display (display 16) and a second user interface comprising a keypad (keypad 14), the apparatus including:

first and second housing members (panels 22, and 24) each having a first surface and an opposite second surface (col. 5 lines 18-24),

the first user interface being provided at the first surface of the first housing member (display 16 is disposed on 24) and the second use interface being provided at the first surface of the second member (see fig. 2. keypad 14 is disposed on 22),

and a connecting mechanism for movably connecting the first and second housing members (col. 5 lines 1-2), wherein a position of the first and second members relative to each other determines a mode of operation of the apparatus (col. 3 lines 65-67, and col. 5 lines 2-10) such that,

when the first and second housing members are connected and positioned together in a second closed position such that the second surface of the first member is closed toward one surface of the other member such that the first user interface is accessible (see fig. 3, and col. 6 lines 9-18),

when the first and second housing members are connected and positioned together in a first closed position such that the first surface of the first member is closed toward one surface of the other member such that the first user interface is inaccessible (see fig. 1, and col. 5 lines 50-58), the apparatus is in an inactive mode of operation in which both the first user-interface and the second user interface are inactive (col. 34-36), and

when the first and second housing members are connected and positioned apart from each other in an open position (see fig. 2, and col. 5 lines 59-65), the

apparatus comprises a fully operational active mode of operation in which both the first user interface and the second user interface are fully accessible and active.

Andersson fails to disclose a first closed position such that standby mode of operation of the user interface in which the first user interface is inactive and the second interface is either accessible, a second closed position such the apparatus is in a second mode of operation of the user interface in which the first user-interface is inactive, the apparatus is in a third mode of operation of the user-interface comprising a fully operational mode of operation in which the first user interface is active.

Oakley discloses a first closed position mode of operation that allows the user interfaces to be accessible in a standby mode as claimed (Figures 11 and 12 and please see the rejection claim 17 above), a second closed position such the apparatus is in a second mode of operation of the user-interface in which the first user-interface is inactive the apparatus is in a third mode of operation of the user interface comprising a fully operational mode of operation in which the first user interface is active (Figures 1-12, col. 5 lines 29-30, col. 5 lines 41-43, col. 7 line 59-col. 8 line 3, col. 9 lines 57-65, col. 10 line 10-35, and col. 9 lines 65-67). Oakley further teaches that the second user interface (keyboard) is accessible while the portable communication device is in the first closed position (Figure 11, note that the keyboard is accessible while the device is in a closed position. Further note

that a portion of display is accessible as well. Thus, the closed position of figure 11 provides that both the keyboard and the display remain accessible).

It would have been obvious to one of the ordinary skill in the art at the time of invention to modify the invention of Anderson in the format claimed by applicant by incorporating the teachings of Oakley, for the purpose of providing an efficient communication device multiple operational modes and therefore conserving energy.

The combination of Andersson/Oakley does not specifically disclose that the display is an output-only display as claimed.

Ogilvie discloses the concept of display-only display (paragraph 54, “the display 104 may be an output-only display”).

It would have been obvious to one of the ordinary skill in the art at the time of invention to modify the combination in the format claimed by applicant by incorporating the teachings of Ogilvie, for the purpose of providing an efficient communication device.

The combination of Andersson/Oakley/Ogilvie does not specifically disclose the mode of operation where the first user interface is active and the second user interface is inactive.

Cowsky discloses the mode of operation where the first interface (display) is inactive while the second interface (keyboard) is active (paragraph 2, “display

screen is inactive to save power ... but the cellular telephone may easily be switched to an active mode”).

It would have been obvious to one of the ordinary skill in the art at the time of invention to modify the combination above in the format claimed by applicant, for the purpose of saving power.

Regarding claim 5, the combination of Andersson/Oakley/Ogilvie/Cowsky discloses a portable electronic communication device according to claim 4 and further discloses the apparatus comprises one and only one display (Andersson see figure 2, display 16).

Regarding claim 12, the combination of Andersson/Oakley/Ogilvie/Cowsky discloses a portable electronic communication device according to claim 1, wherein the apparatus is switched off in the second closed position (col. 7 line 59-col. 8 line 3, and col. 10 line 10).

Regarding claims 13 and 14, the combination of Andersson/Oakley/Ogilvie/Cowsky discloses a portable electronic communication device according to claim 1, and further disclose the apparatus is a mobile telephone (Andersson, see fig. 1, Cowsky, fig. 1).



Claim 17 recites features analogous to the features of claim 1. Thus, the combination of Andersson/Oakley/Ogilvie/Cowsky discloses all elements of claim 17 (please see the rejection claim 1 above).

Regarding claim 27, the combination of Andersson/Oakley/Ogilvie/Cowsky discloses a portable communication device according to claim 17, and further discloses means for enabling a user of the device to select at least the second and third operational modes (Andersson, col. 8 lines 33-37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Oakley, for the purpose of providing an efficient communication device.

Referring to claims 36 and 37, the combination of Andersson, Oakley, Ogilvie and Cowsky discloses a portable communication apparatus and device according to claims 1 and 17 and further disclose effective size of said first user interface is a same size whether in said fully operational active mode or said standby mode (Oakley, Figs. 1-14).

Referring to claims 42 and 43, the combination of Andersson, Oakley, Ogilvie and Cowsky discloses a portable communication apparatus and device according to claims 1 and 17 and further disclose fully operational active mode of operation is a first active mode of operation (Oakley, Figs. 1-14, Andersson, fig. 12, and col. 9 lines 57-65).

Referring to claims 44 and 45, the combination of Andersson, Oakley, Ogilvie and Cowsky discloses a portable communication apparatus and device according to claims 1 and 17 and further disclose standby mode is a second active mode of operation (Oakley, Figs. 1-14, Andersson, fig. 12, and col. 9 lines 57-65).

6. Claims 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 7,197,332 B2 to Andersson et al in view of Oakley (US Patent No. 7,126,588 B2), further in view of Ogilvie (US 2003/0040899 A1) further in view of Cowsky, III et al (US 2004/0204123 A1), and still further in view of well know prior art (MPEP 2144.03).

Referring to claims 38 and 39, the combination of Andersson, Oakley, Ogilvie and Cowsky discloses a portable communication apparatus and device according to claims 1 and 17.

The combination above does not specifically disclose in the standby mode of said second closed position, said first user interface may display information associated with said standby.

The examiner takes official notice of the fact that a user interface displaying information associated with standby is well known in the art, e.g., the screen savor feature.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination, for the purpose of providing an efficient communication device.

Referring to claims 40 and 41, the combination of Andersson, Oakley, Ogilvie and Cowsky discloses a portable communication apparatus and device according to claims 1 and 17.

The combination does not specifically disclose the first user interface is a liquid crystal display (LCD).

The examiner takes official notice of the fact that a LCD displays are well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination, for the purpose of providing an efficient communication device.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 5, 12-14, 17, 27 and 36-45 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred A. Casca whose telephone number is (571) 272-7918. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Harper, can be reached at (571) 272-7605. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/VINCENT P. HARPER/  
Supervisory Patent Examiner, Art Unit 2617